

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 4TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE G.PATRI BASAVANA GOUD

WRIT PETITION NUMBER 26000 OF 1990

Between:

1. The Karnataka State Road
Transport Corporation
Central Offices
Bangalore 560 027
by its Chief Law Officer

2. The Deputy General Manager
and Divisional Controller
KSRTC Hassan Division
Hassan

-Petitioners

(By Sri V. Mukunda Menon, Advocate)

And:

1. Sri D. T. Thimmegowda
c/o S. S. Padmaraja
No.53, 2nd Floor
Vani Vilas Road
Opp: National College
Basavanagudi
Bangalore 560 004

2. The Presiding Officer
Labour Court
Mangalore

-Respondents

(By Sri V. Lakshminarayana, Adv. for R-1;
Smt. Shanthakumari, HCGP for R-2)

This writ petition is filed under Articles 226 and 227 of the Constitution seeking to quash the award dated 7-5-1990 at Annexure-D passed by the Labour Court, Mangalore in Reference No.65 of 1986.

This writ petition coming on for hearing this day, the Court made the following:

ORDER

O R D E R

Ms. Shanthakumari, learned HCGP appears for the second respondent.

2. On the charge of failure to issue tickets to 14 passengers inspite of collecting fare from the said passengers, the first respondent conductor in the petitioner KSRTC was proceeded against in a disciplinary enquiry, and, on proof of misconduct, he was dismissed from service. In the industrial dispute raised in that regard, Labour Court held the domestic enquiry to be invalid. On appreciation of the evidence on record, Labour Court held the charge as proved but held the punishment of dismissal from service to be disproportionate to the said charge and substituted in its place a lesser punishment of complete denial of back wages in addition to withholding two increments with cumulative effect. With this lesser punishment, Labour Court, by its award dated 7-5-1990 at Annexure-D, directed reinstatement of the first respondent with the benefit of continuity of service and consequential benefits. In this writ petition under Articles 226 and 227 of the Constitution, the employer KSRTC seeks

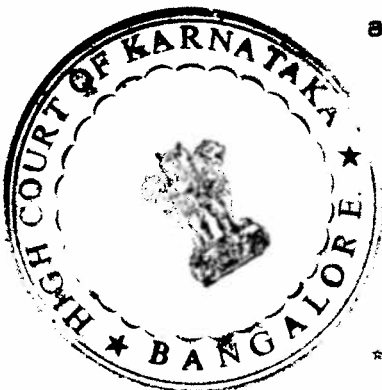
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quashing of the said award.

3. The charge having ^{been} held proved, the only question that arises is as to whether the Labour Court acted arbitrarily under Section 11A of the Industrial Disputes Act, 1947 ('Act' for short) in substituting the above said lesser punishment in place of punishment of dismissal from service. Having regard to the charge proved, I am of the opinion that the punishment of dismissal from service is disproportionate to the said charge and that the lesser punishment that is substituted by the Labour Court under Section 11A of the Act, namely complete denial of back wages and withholding of two increments with cumulative effect, is an appropriate lesser punishment. There is no arbitrariness on the part of the Labour Court in so acting under Section 11A of the Act.

4. There is no infirmity in the impugned award. Writ Petition dismissed.

Sd/-
JUDGE



*rk.